

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**SEASONS PIZZA FRANCHISOR, INC.**

1007 Church Road  
Bear, Delaware 19702

Plaintiff

v.

**FOUR SEASONS PIZZA, LLC**

2467 S. State Street  
Dover, DE 19901-6304

Defendant

**C.A. No.: 17-1689 GMS**

**JURY TRIAL DEMANDED**

\* \* \* \* \*

**JOINT STATUS REPORT**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, District of Delaware Local Rule 16, and the Court's January 30, 2018 Order, the parties, by and through their undersigned counsel, jointly submit this Joint Status Report for the above-captioned lawsuit. In preparing this Joint Status Report, counsel for the parties have met and conferred as required by Fed. R. Civ. P. 26(f). Whiteford Taylor & Preston LLP participated on behalf of Plaintiff Seasons Pizza Franchisor, Inc. ("Plaintiff") and Parkowski, Guerke & Swayze, P.A. participated on behalf of Defendant Four Seasons Pizza, LLC ("Defendant" and collectively, the "Parties").

1. **Jurisdiction and Service:** (Does the court have subject matter jurisdiction? Are all parties subject to the court's jurisdiction? Do any remain to be served?)

This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. §1121 and 28 U.S.C. §§1331, 1338, and 1367, as this action involves a trademark dispute arising under the Federal Trademark Statute, a/k/a the Lanham Act (15 USC §§ 1051 *et. seq.*) and

related common law claims. No party is contesting personal jurisdiction for the purposes of this action. Service is complete.

**2. Substance of the Action:** (What are the factual and legal bases for plaintiff's claims and defendants' defenses?)

Plaintiff alleges that it is a senior user of the SEASONS PIZZA mark and owns all rights in such mark (the "Mark"). Plaintiff alleges that Defendant's use of the Mark in connection with its restaurant business infringes its rights in the Mark, which has caused Plaintiff to suffer continuing harm, including irreparable damages. Plaintiff asserts three (3) causes of action in its Complaint, specifically: Count I – Trademark Infringement (15 USC §§ 1117 and 1125); Count II – Trademark Infringement (Common Law); and Count III – Common Law Unfair Competition.

Defendant alleges that its marks have been in open, continuous and extensive use by Defendant in the Dover, Delaware area for more than eight (8) years. Defendant has raised defenses to the Complaint including, *inter alia*, laches, waiver, acquiescence, and denies its marks infringe Plaintiff's, denies that the marks are confusingly similar and denies that Plaintiff has suffered any damages.

**3. Identification of Issues:** (What factual and legal issues are genuinely in dispute?)

Whether Defendant's use of the Mark in connection with its restaurant business constitutes trademark infringement and/or unfair competition?

**4. Narrowing of Issues:** (Can the issues in litigation be narrowed by agreement or by motions? Are there dispositive or partially dispositive issues appropriate for decision on motion?)

As this matter proceeds, the parties will negotiate in good faith to narrow the issues. It is premature at this time for the parties to affirmatively state whether dispositive motions may serve to narrow any issue.

5. **Relief:** (What specific relief does plaintiff seek? What is the amount of damages sought and generally how is it computed?)

Plaintiff seeks to enjoin Defendant from continuing to infringe on the Mark and continuing its acts of unfair competition. Plaintiff further seeks damages resulting from Defendant's past infringement.

6. **Amendments of Pleadings:**

At this time, the parties are not aware of any needed amendments to the pleadings.

7. **Joinder of Parties:**

At this time, the parties do not believe that any additional parties need to be joined.

8. **Discovery:** (Discovery contemplated by each party and the amount of time it may take to complete discovery? Can discovery be limited? Are less costly and time consuming methods available to obtain necessary information?)

The Parties envision that fact discovery can be completed within four (4) months. At the conclusion of fact discovery, the Parties propose an additional four (4) month period to exchange expert reports and conduct expert depositions, followed by a period of time to file dispositive motions.

A. **Case Schedule:** The parties propose the following schedule:

| <b><u>Event</u></b>                  | <b><u>Proposed Date</u></b> |
|--------------------------------------|-----------------------------|
| Fact Discovery Deadline              | July 2, 2018                |
| Plaintiff's Expert Reports           | August 15, 2018             |
| Defendant's Expert Reports           | September 17, 2018          |
| Plaintiff's Reply Expert Reports     | October 1, 2018             |
| Expert Discovery Deadline            | November 1, 2018            |
| Deadline to File Dispositive Motions | December 14, 2018           |
| Joint Proposed Pretrial Order        | February 15, 2019           |
| Pretrial Conference                  | _____, 2019 at __:__ .m.    |
| Commencement of Trial                | _____, 2019                 |

9. **Estimated Trial Length:** (Is it feasible or desirable to bifurcate issues for trial? Is it possible to reduce the length of the trial by stipulations, use of summaries or statements, or other expedited means of presenting evidence?)

The Parties expect the trial of this matter to take 3-4 days.

10. **Jury Trial:**

Plaintiff has requested a trial by jury for all issues so triable.

11. **Settlement:** (Have there been settlement discussions? What are the prospects for settlement? Is referral to the Magistrate for mediation or other ADR mechanism appropriate?)

The Parties have, and are continuing to engage in settlement discussions. The parties respectfully submit that they are both open to the prospect of settlement and referral to a Magistrate as appropriate

12. **Other Matters:** (Such other matters as counsel considers conducive to the just, speedy and inexpensive determination of this action.)

There are no other matters.

13. **Statement Regarding Conference:** (A statement that counsel for the parties have conferred about each of the above matters.)

Counsel for the Parties have conferred about each of the above matters.

Dated: February 28, 2018

WHITEFORD TAYLOR PRESTON LLC

/s/ Kaan Ekiner

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Respectfully submitted,

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